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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/797,247

03/10/2004

John MacDonald

TRM A2596DIV2

5381

32047

7590

11/18/2008

GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC  
55 SOUTH COMMERICAL STREET  
MANCHESTER, NH 03101

EXAMINER

MIGGINS, MICHAEL C

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

11/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/797,247	<b>Applicant(s)</b> MACDONALD ET AL.	
	<b>Examiner</b> Michael C. Miggins	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 25-34 and 36-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-34 and 36-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/13/07</u> .                                                 | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

**REJECTIONS WITHDRAWN**

1. All of the objections and rejections set forth in the non-final rejection of 11/18/04, pages 2-7, paragraphs 5-12 have been withdrawn.

**REJECTIONS REPEATED**

2. There are no rejections repeated.

**NEW REJECTIONS**

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 28-30, 32-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Gardner, Jr. (US 6013210).

The limitation “formed by double-cast slush molding” is a method limitation in a product claim. The method limitation adds no structure to the product claim and is therefore not germane to the patentability of the product in a product claim and has been given little patentable weight (MPEP 2113).

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Gardner discloses a thin shell for an automotive interior trim panel (column 1, lines 14-21), said shell having an outer layer (either 26 or 28 from Fig. 1) and an inner layer (either 28 or 30 from Fig. 1, column 5, lines 29-58), the shell comprising an outer layer comprising a first polymer material (column, 6, lines 4-16, column 7, lines 12-25, column 12, line 61 through column 15, lines 9-14), an inner layer comprising a second polymer material, the second polymer material further comprising a mixture of two or more different polymer formulations (column, 6, lines 4-16, column 7, lines 12-25, column 12, line 61 through column 15, lines 9-14), and the inner layer at least partially covering the inner surface of the outer layer and concealed from view (column 7, lines 1-11) and wherein said formulations differ with respect to the polymer component of said polymer formulations (column, 6, lines 4-16, column 7, lines 12-25, column 12, line 61 through column 15, lines 9-14), or wherein the second polymer material further comprising a polymer formulation which is more susceptible to ultraviolet radiation (column 13, lines 22-30, column 14, lines 62-67, the UV stabilizers can be included or not included in each layer 26 and/or 28, UV stabilizers are not present in layer 30, column 15, line 59 through column 16, line 10) (applies to instant claims 28-30, 32-34).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 31, 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gardner, Jr. (US 6013210) in view of Madonia et al. (US 4546022).

Gardner fails to disclose that the additive in the second layer is a pigment and wherein the thickness of the outer layer is between 0.005 to 0.025.

Madonia discloses that the additive in the second layer is a pigment (column 2, lines 1-14) and wherein the thickness of the outer layer is between 0.005 to 0.025 (column 1, lines 30-41) in a decorative molding for automobiles (column 1, lines 7-11) for the purpose of a more environmentally friendly trim through the use of recycled materials and lowering of pigmentation costs (column 1, lines 35-41 and column 2, lines 1-14).

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided an additive in the second layer which is a pigment and wherein the thickness of the outer layer is between 0.005 to 0.025 in order to provide for a more environmentally friendly trim through the use of recycled materials and lowering of pigmentation costs as taught or suggested by Madonia.

7. Claims 25-27 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Madonia et al. (US 4546022) in view of Gardner, Jr. (US 6013210).

Madonia teaches a decorative trim article (col. 1, lines 8-11), that uses reduced amounts of pigment, and thus saves money, because its molded outer layer is 6 to 12 mils thick, 0.006 – 0.012 inches (col. 1, lines 28-41). In Figure 2, the articles have a molded base 12 of foamed (recycled/blown) plastic (col. 2, lines 35-40) and outer layers

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14 and 36 from Figs. 1-3, layers 12 and 14 are of PVC material (applies to instant claims 25-27 and 36).

Madonia fails to specifically disclose that the automotive trim is an interior automotive trim and the inner layer at least partially covering the inner surface of the outer layer concealing it from view.

Gardner discloses that the automotive trim is an interior automotive trim (column 1, lines 14-21) and the inner layer at least partially covering the inner surface of the outer layer concealing it from view (column 7, lines 1-11) in an automotive trim for the purpose of providing less costly trim with high quality leather-like appearance and improved grain definition and durability (column 2, lines 15-22). It would also be obvious to use Madonia as interior trim in order to provide a more environmentally friendly trim through the use of recycled materials and lowering of pigmentation costs.

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention to have provided that the automotive trim is an interior automotive trim and the inner layer at least partially covering the inner surface of the outer layer concealing it from view in Madonia in order to provide less costly trim with high quality leather-like appearance and improved grain definition and durability as taught or suggested by Gardner and it would also be obvious to use Madonia as interior trim in order to provide a more environmentally friendly trim through the use of recycled materials and lowering of pigmentation costs.

#### **ANSWERS TO APPLICANT'S ARGUMENTS**

8. Applicant's arguments of 6/16/06 have been carefully considered but are moot in view of the new grounds for rejection above. Applicant argued that Madonia is drawn to exterior automotive trim. However, Madonia does not indicate an interior or exterior trim and there is nothing in Madonia which teaches away from its use as an interior trim.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael C. Miggins/  
Primary Examiner, Art Unit 1794

MCM  
November 10, 2008